

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,)	
)	
v.)	21-CR-476
)	
ROBERTO GUTIERREZ,)	
)	
Defendant.)	
)	

MEMORANDUM ORDER

Before the Court is Defendant Roberto Gutierrez’s motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2). ECF 239. Mr. Gutierrez argues that his sentence should be reduced because he meets the criteria set forth in U.S.S.G. § 4C1.1. *Id.* at 3-4.

As an initial matter, it appears that Mr. Gutierrez was released from federal custody on October 21, 2024, while the Federal Public Defender’s Office was considering his motion. So the motion is moot. *United States v. Van Huynh*, No. 14-275, 2022 WL 585149, at *1 (M.D. Pa. Feb. 25, 2022).

In any event, per his plea agreement, Mr. Gutierrez received a two-level increase under Section 3A1.1 for vulnerable victims. So he does not qualify for a reduction under Section 4C1.1. *See Kamuvaka v. United States*, No. 09-0294, 2024 WL 4003516, at *2 (E.D. Pa. Aug. 29, 2024) (holding that “for the adjustment to apply, the defendant cannot have received an adjustment under § 3A1.1 (Hate Crime Motivation or Vulnerable Victim)” (cleaned up)).

* * *

AND NOW, this 11th day of February, 2025, it is hereby **ORDERED** that Mr. Gutierrez’s motion to reduce his sentence under 18 U.S.C. § 3582(c)(2) (ECF 239) is **DENIED**.

BY THE COURT:

cc:
Roberto Gutierrez
USMS No. 75575-509
FCI Loretto
P.O. Box 1000
Cresson, PA 16630

/s/ J. Nicholas Ranjan
United States District Judge